

(2021) 01 PAT CK 0145

In the Patna High Court

Case No : Criminal Appeal (Sj) No. 1875 Of 2020

Jago Yadav @ Jagdish Chandra Yadav And Ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 19-01-2021

Acts Referred:

Scheduled Caste And Scheduled Tribe (Prevention Of Atrocities) Act, 1989 — Section 3(1)(r)(s), 14A(2)
Indian Penal Code, 1860 — Section 34, 307, 323, 341, 354, 427, 447, 504
Arms Act, 1959 — Section 27
Code Of Criminal Procedure, 1973 — Section 438(2)

Citation : (2021) 01 PAT CK 0145

Hon'ble Judges : Ashwani Kumar Singh, J

Bench : Single Bench

Advocate : Ramesh Kumar Singh, Sadanand Paswan

Final Decision : Allowed

Judgement

1. Heard learned counsel for the appellants and learned Spl. P.P. for the State.

2. This appeal under Section 14A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short "the Act")

has been preferred by the appellants challenging the order dated 25.06.2020 passed in Special A.B.A. (SC/ST) No. 15 of 2020 in connection with

Alauli P.S. Case No. 47 of 2020 registered for the offences punishable under Sections 341, 323, 307, 354, 427, 447 and 504 read with 34 of the Indian

Penal Code, Section 27 of the Arms Act and Section 3(1)(r)(s) of the SC/ST Act by the learned 1st Addl. Sessions Judge-cum-Special Judge-SC/ST

Act, Khagaria whereby he has rejected the appellant's prayer for grant of pre-arrest bail.

3. At the outset, it has been brought to the notice of the Court that during

pendency of the appeal, appellant no. 1 Jago Yadav @ Jagdish Chandra Yadav and appellant no. 2 Phulen Yadav have been arrested.

4. In that view of the matter, the appeal so far as the appellant nos. 1 and 2 are concerned, has become infructuous.

5. The FIR has been instituted on 16.02.2020 on the basis of written report of one Ashok Mallik wherein he has stated that he has been residing on the Bihar Government land since forty years back which was allotted by the Circle Officer after measurement, but anti-social element always used to assault and abuse him and his family members taking their caste name. On 16.01.2020, at around 06:00 p.m., the accused persons including the appellant abuses and assault him causing injury on his abdomen. He further alleged that the accused persons killed his pregnant sow and dismantled the government hand-pump and also abused his daughter-in-law taking her caste name.

6. So far as the appellant no. 3 is concerned, it has been submitted by Mr. Ramesh Kumar Singh, learned counsel for the appellant that the allegation

made against him is general and omnibus. The alleged victim has stated in the first information report that he was abused by taking his caste name but

nowhere it has been stated that it was the appellant, who had abused him taking his caste name. He contended that even the name of the caste to

which the informant belongs has not been mentioned in the FIR. He further contended that there is delay of one month in institution of the FIR and the

reason assigned for the delay is that the informant was being treated at Haripur Krishna Nursing Home at Begusarai and thereafter by one Dr. A.K.

Sharma at Begusarai. There is no injury report of any doctor who treated him at Haripur Krishna Nursing Home first. There is no reason as to why

the matter was not reported to the police while he was going under treatment. Lastly, he contended that the allegation of assault by Rambha is

confined against co-accused Jago Yadav.

7. On the other hand, learned counsel for the State submitted that though there is one month delay in institution of the FIR, the medical report of Dr.

A.K. Sharma suggests that the informant had sustained grievous injury in his abdomen. He, however, admitted that the allegation of assault by

Rambha is against appellant no. 1 Jago Yadav @ Jagdish Chandra Yadav. He also admitted that there is no mention of the caste name in the first

information report instituted by the informant. He also admits that there is no specific allegation in the first information report that it was the appellant, who abused the informant or his daughter-in-law by taking name of the caste.

8. Considering the submissions advanced on behalf of the parties and the materials on record, I am of the opinion that the court below erred in appreciating the facts of case.

9. In that view of the matter, the impugned order dated 25.06.2020 passed in Special A.B.A. (SC/ST) No. 15 of 2020 by the learned 1st Addl.

Sessions Judge-cum-Special Judge-SC/ST Act, Khagaria is, hereby, set aside.

10. The appellant no. 3 is directed to be released on bail, in the event of his arrest or surrender, on furnishing bail bond of Rs.10,000/- (Rupees ten

thousand) with two sureties of the like amount each to the satisfaction of learned 1st Addl. Sessions Judge-cum-Special Judge-SC/ST Act, Khagaria

in connection with Alauli P.S. Case No. 47 of 2020, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

11. The appeal stands allowed.